



CITY OF MORGAN HILL
17555 PEAK AVENUE MORGAN HILL, CALIFORNIA 95037

COUNCIL MEMBERS

Dennis Kennedy, Mayor
Greg Sellers, Mayor Pro Tempore
Larry Carr, Council Member
Hedy Chang, Council Member
Steve Tate, Council Member

WEDNESDAY, JULY 14, 2004

AGENDA

CITY COUNCIL SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council is called at 6:00 P.M. for the Purpose of Conducting Closed Sessions and City Business.

Dennis Kennedy, Mayor

CALL TO ORDER
(Mayor Kennedy)

ROLL CALL ATTENDANCE
(City Clerk Torrez)

DECLARATION OF POSTING OF AGENDA
Per Government Code 54954.2
(City Clerk Torrez)

OPPORTUNITY FOR PUBLIC COMMENT

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK WILL FORWARD CORRESPONDENCE TO THE CITY COUNCIL.**

6:00 P.M.

City Council Action

CLOSED SESSIONS:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Legal Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	2

7:00 P.M.

City Council Action

OTHER BUSINESS:

1. **COUNCIL SUBCOMMITTEE REPORT ON THE RESULTS OF THE INVESTIGATION INTO THE
SURVEILLANCE OF THE CITY MANAGER** (Continued from 7/7/04)

Recommended Action(s):

1. **Discuss** Report of Subcommittee as of July 2, 2004;
2. **Receive** any additional facts;
3. **Consider** Adoption of Appropriate Recommendations;
4. **Possible Action** on the Subcommittee Report as Supplemented; and
5. **Continue** Investigation if Directed by City Council.

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT



CITY COUNCIL STAFF REPORT

MEETING DATE: July 14, 2004

TITLE: PRESENTATION OF COUNCIL SUBCOMMITTEE REPORT ON THE RESULTS OF THE INVESTIGATION INTO THE SURVEILLANCE OF THE CITY MANAGER

RECOMMENDED ACTIONS:

1. Discuss subcommittee's report as of through July 2, 2004.
2. Receive any additional facts.
3. Consider adoption of appropriate recommendations.
4. Possible Action on subcommittee report as supplemented
5. Continue investigation if directed by Council.

EXECUTIVE SUMMARY: During the first week of February 2004, City Manager J. Edward Tewes learned that he was put under surveillance while traveling on City business. On February 18, 2004, the City Council of the City of Morgan Hill appointed a subcommittee consisting of Mayor Pro Tem Greg Sellers and Councilmember Larry Carr to investigate that incident.

After months of investigation the subcommittee submitted its report on the findings of the investigation on July 7, 2004, provided an opportunity for response to the subcommittee's report, and presented options for action.

The City Council expressed a desire to learn all relevant facts, invited presentations addressing the facts, and scheduled a special meeting for July 14 to consider adoption of appropriate recommendations consistent with the City of Morgan Hill and its Council's commitment to maintaining the highest expectations for the transparent, fair, and ethical conduct of itself and of its citizens in their dealings with City government and its commitment to preserving a safe working environment for its employees.

FISCAL IMPACT:

No budget adjustment required.

Agenda Item # 1

**Prepared and
Submitted By:**

**Mayor Pro Tem Greg
Sellers**

and

**Councilmember
Larry Carr**

RESOLUTION NO. 5832

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL CONDEMNING THE SURVEILLANCE ACTIVITIES OF MR. BRUCE TICHININ, DEPLORING FALSE STATEMENTS MADE BY HIM AND REQUESTING HIS RESIGNATION FROM THE MORGAN HILL URBAN LIMIT LINE SUBCOMMITTEE

WHEREAS under the Council-Manager form of government, the Morgan Hill City Council is responsible for obtaining the services of a professional City Manager who is selected on the basis of experience, and administrative and executive ability; and

WHEREAS J. Edward Tewes has been employed by the City of Morgan Hill since January of 2000 as the City Manager, and in that capacity has served and continues to serve the City as its chief administrative officer with exceptional skill, demonstrating sound judgment and integrity in all matters; and

WHEREAS the City Council highly values the services of the City Manager and has a duty to provide for him a safe working environment, including protecting him from harassment by members of the public in the performance the duties of his employment; and

WHEREAS the City Manager informed the City Council that he was the subject of frightening and intrusive surveillance while he attended the annual League of California Cities City Manager Spring Conference in Huntington Beach on February 3 – 6, 2004; and

WHEREAS a subcommittee of the City Council appointed to investigate the surveillance identified the person who conducted the surveillance and the person who ordered the surveillance, and

WHEREAS the person who ordered the surveillance is Bruce Tichinin, a citizen of Morgan Hill, and

WHEREAS Mr. Tichinin, when asked if he knew anything about the surveillance, at first told Councilmember Sellers that he had no involvement in the surveillance, and

WHEREAS Mr. Tichinin later admitted that the foregoing denial was false and apologized to Mr. Sellers for it, and

WHEREAS Mr. Tichinin later stated that the purpose of his plan to put the City Manager under surveillance was to obtain evidence that he and City Attorney Helene Leichter were having a sexual relationship in order to present this evidence to the City Council in an attempt to disqualify the City Manager and City Attorney from advising the City Council on matters of interest to Mr. Tichinin and to his clients, and

WHEREAS the City incurred substantial expense to identify the persons responsible for the surveillance and will continue to incur legal costs until the matter is resolved; and

WHEREAS Mr. Tichinin has not presented any evidence of the existence of a sexual relationship between the City Manager and the City Attorney, and

WHEREAS Mr. Tichinin has not presented any evidence that the City Manager's work has been improperly influenced or that the City Attorney's work has been improperly influenced, and

WHEREAS the City Council is not aware of any evidence of a sexual relationship between the City Manager and the City Attorney, or that the work of either has been improperly influenced, and

WHEREAS on July 7, 2004, the City Council adopted the report of its subcommittee as of July 2, 2004 of the investigation; and

WHEREAS the City Council personally notified Mr. Tichinin on July 2, 2004 of the subcommittee report and invited him to respond to it, and also provided Mr. Tichinin opportunities to respond in writing and orally at the City Council meetings of July 7, 2004 and July 14, 2004; and

WHEREAS Mr. Tichinin presented a lengthy letter from his attorney attempting to justify his actions, but not denying the material information in the subcommittee report; and

WHEREAS Mr. Tichinin serves at the will of the City Council on one of its legislative subcommittees, the Morgan Hill Urban Limit Line Study Committee, to study and advise the City Council on the issue of an Urban Limit Line; and

WHEREAS the City Council has lost its confidence in Mr. Tichinin because of the matters discussed above in this resolution; and

WHEREAS the City Council deplores the unjustified surveillance of the City Manager and is deeply concerned that acquiescing in such behavior in this instance would expose other city employees to the risk of having their personal lives put under unjustified intrusive and frightening surveillance and invasion of privacy invaded by persons displeased with the way they perform their jobs; and

WHEREAS the City Council wishes to reaffirm its confidence in the City Manager;

NOW THEREFORE, BE IT RESOLVED THAT:

1. The City Council condemns the surveillance activities of Mr. Bruce Tichinin and finds them unwarranted and unjustified.
2. The City Council deplores the false statements that Mr. Tichinin made to City Council Members to avoid disclosure of the surveillance.
3. The City Council requests Mr. Tichinin's immediate resignation from the Morgan Hill Urban Limit Line Subcommittee.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Special Meeting held on the 14th Day of July, 2004 by the following vote.

AYES:	COUNCIL MEMBERS:	Larry Carr, Hedy Chang, Dennis Kennedy, Greg Sellers, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5832, adopted by the City Council at a Special Meeting held on July 14, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk